

# EXHIBIT A

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JUN 10 2016

RECEIVED  
IN THE COURT OF COMMON PLEAS OF CRAWFORD COUNTY  
PENNSYLVANIA

16 JUN 20 AM 11:56

SANDRA BREI

SHERIFF'S OFFICE  
CRAWFORD COUNTY

CIVIL DIVISION

Plaintiff,

Docket No. GD- A D 2016

368

v.

COMPLAINT IN CIVIL  
ACTION

TIMOTHY FULLERTON, D.O., d/b/a  
MERCER PRIMARY CARE, PRIMARY  
HEALTH NETWORK and  
DIANA KEISEL, LPN

Defendants.

Filed on behalf of  
Plaintiff:  
Sandra Brei

Counsel of record for  
this party:

Dominic D. Salvatori,  
Esquire  
Pa. I.D. # 27884

310 Chestnut St.  
Suite 101  
Meadville, PA 16335

(412) 343-7927  
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COPY

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TIMOTHY FULLERTON, D.O., d/b/a  
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HEALTH NETWORK and DIANA  
KEISEL, LPN,

Defendants.

**NOTICE TO DEFEND**

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Crawford County Court Administrator  
903 Diamond Park  
Meadville, PA 16335  
(814) 333-7300, ext. 498

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SANDRA BREI

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KEISEL, LPN,

Defendants.

**COMPLAINT IN CIVIL ACTION**

Plaintiff, Sandra Brei, by and through her attorney,  
Dominic D. Salvatori, Esquire, brings the following cause of  
action:

1. Sandra Brei is an adult individual residing at 10  
Zahniser Road, Lot 4, Mercer, Mercer County, Pennsylvania 16317.
2. Defendant Timothy Fullerton DO d/b/a Mercer Primary  
Care is a professional licensed to practice medicine in the  
Commonwealth of Pennsylvania. At all times material hereto he  
maintained a professional office address at 737 Greenville Road,  
Mercer, Mercer County, Commonwealth of Pennsylvania 16137.
3. Defendant Primary Health Network is a non-profit  
corporation with corporate offices located at 100 Shenango Ave,  
Sharon, Mercer County, Pennsylvania 16146. At all times material  
hereto it owned and/or operated the facility known as Mercer  
Primary Care located at 737 Greenville Road, Mercer, Mercer  
County, Pennsylvania 16137.

4. Defendant Diana Keisel is a Licensed Practical Nurse in the Commonwealth of Pennsylvania. Her last known address is 1330 Sheakleyville Rd, Cochran, Crawford County, Pennsylvania 16314. At all times material hereto she was employed by Defendant Timothy Fullerton d/b/a Mercer Primary Care and/or Primary Health Network, authorized and acting in the course and scope of that employment status.

5. Plaintiff is asserting a professional liability claim against each and every one of these defendants.

6. On July 16, 2014, Mrs. Brei went to the offices of Defendant Fullerton for a routine office appointment.

7. While there, Defendant Fullerton examined Mrs. Brei's ears and noted a great deal of wax buildup that he said needed cleaned out. Defendant Fullerton then left the office and Defendant Keisel came into the room. Defendant Keisel put a solution in her right ear and started squeezing a bulb like instrument with water into the ear. Mrs. Brei said the wax was not coming out and she asked Defendant Keisel if she should get the doctor. Defendant Keisel replied that the doctor was "really busy" and said "let me try again." The Defendant then injected more water, forcefully, and Mrs. Brei felt a very severe pain.

Thereafter she went home and had severe ear pain that night. The pain eventually abated.

8. In December of 2014 Mrs. Brei applied for a position with Trinity Living Center which required a pre-employment physical. She was informed that she had a significant hearing loss in the right ear. She then saw a new family physician, Dr. Ciambotti who confirmed the hearing loss and said she had a "big hole" in her eardrum. She went in January 2015 to an ENT specialist, Dr. Woods, who confirmed the damage to her right ear. Ultimately surgery was needed to reconstruct the eardrum. Mrs. Brei has been left with a significant hearing loss in the right ear and constant ringing in the ears.

9. As a result of the negligence of the defendants, as more specifically set forth below, Mrs. Brei has suffered the following injuries:

- a. Perforated/punctured right eardrum/posterior quadrant perforation;
- b. Eustachian tube dysfunction;
- c. Tympanosclerosis;
- d. Mixed hearing loss of the right ear;
- e. Tinnitus;
- f. Central perforation of the tympanic membrane.

10. The natural and foreseeable consequence of these injuries have been the following harms and losses:

- a. Pain and suffering;
- b. Loss of enjoyment of the pleasures of life, including but not limited to her freedom, independence, and ability to interact with her friends, neighbors, family and the community in general;
- c. Embarrassment, humiliation and mental anguish;
- d. Medical expenses, past and future;
- e. Wage loss;
- f. Loss of future earnings/earning capacity;

**COUNT ONE - SANDRA BREI VS. TIMOTHY FULLERTON, DO d/b/a  
MERCER PRIMARY CARE**

11. Paragraphs 1-10 above are incorporated by reference.

12. Defendant Fullerton negligently caused the aforesaid injuries and damages to Mrs. Brei by:

- a. Having an improperly trained and/or incompetent and/or unsafe employee (Defendant Keisel) perform the ear wax removal procedure;
- b. Choosing to have Defendant Keisel perform the procedure instead of himself when he knew, or in the exercise of reasonable diligence should have known, that she was not properly trained or otherwise incompetent to perform the same;
- c. Not properly training or instructing staff, including but not limited to Defendant Keisel, in

the proper and safe methods of removing ear wax without damaging the eardrum;

- d. Refusing or otherwise not choosing to come into the room to check on Mrs. Brei when she requested that he do so during the procedure.

13. Defendant Fullerton is further vicariously liable for the negligent actions of Defendant Keisel, as more specifically set forth below.

WHEREFORE, Plaintiff Sandra Brei requests that Defendant Timothy Fullerton DO d/b/a Mercer Primary Care, be held accountable to her for damages in excess of the jurisdictional limits of arbitration in Crawford County.

**COUNT TWO - SANDRA BREI VS. PRIMARY HEALTH NETWORK**

14. Paragraphs 1-13 are hereby incorporated by reference.

15. At all times material hereto Defendants Fullerton and/or Keisel were agents, servants, and/or employees of Defendant Primary Health Network, authorized and acting in the course and scope thereof.

16. Defendant Primary Health Network is vicariously liable for the negligence of Defendants Fullerton and Keisel, as more specifically set forth herein.

17. Defendant Primary Health Network is also independently negligent for:



- a. Allowing improperly trained and/or supervised personnel to perform an ear wax removal procedure on Mrs. Brei;
- b. Allowing Defendant Keisel perform the procedure when they knew, or in the exercise of reasonable diligence should have known, that she was not properly trained or otherwise incompetent to perform the same;
- c. Employing improperly or inadequately trained personnel to perform ear wax removal.

WHEREFORE, Plaintiff Sandra Brei requests that Defendant Primary Health Network, be held accountable to her for damages in excess of the jurisdictional limits of arbitration in Crawford County.

**COUNT THREE - SANDRA BREI VS. DIANA KEISEL, LPN**

18. Paragraphs 1-17 are incorporated by reference.
19. Defendant Keisel negligently caused the aforesaid injuries and damages to Mrs. Brei by:
  - a. Flushing Mrs. Brei's ear with such force as to puncture the eardrum;
  - b. Continuing the procedure after Mrs. Brei complained of pain;
  - c. Continuing the procedure after Mrs. Brei requested the doctor;
  - d. Performing the procedure when she knew, or should have known, that she was either not properly trained or otherwise lacked the qualifications to do so.

WHEREFORE, Plaintiff Sandra Brei requests that Defendant Diana Keisel, be held accountable to her for damages in excess of the jurisdictional limits of arbitration in Crawford County.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Dom Salvatori", is written over a horizontal line.

Dominic D. Salvatori, Esq.  
Attorney for Plaintiffs  
Pa. ID# 27884

VERIFICATION

I, Sandra Brei, verify that the statements made in the foregoing **Complaint in Civil Action** are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties set forth in 18 Pa. Cons. Stat. Ann. § 4904 relating to unsworn falsification to authorities.

DATE:

6-9-16

Sandra Brei

Sandra Brei

**Exhibit 1**

(The notification by an Assistant Surgeon General of the Department of Health and Human Services deeming the medical center eligible for the Federal Tort Claims Act (FTCA) malpractice coverage.)